

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION

LLOYD MARKS and MUSTANG
HELICOPTERS, L.L.C.

CIVIL ACTION NO. 6:14-cv-00441

VERSUS

JUDGE DOHERTY

TERRY MACKEY and MUSTANG
HELICOPTERS, L.L.C.

MAGISTRATE JUDGE HANNA

ORDER

Currently pending is the defendants' motion to dismiss, stay, or transfer venue (Rec. Doc. 7). The motion is opposed. According to information gleaned from the parties' briefs, another lawsuit between the same parties, alleging breach of the same contract at issue in this lawsuit, was filed in a Utah state court on January 9, 2014 and removed to the United States District Court for the District of Utah on February 11, 2014, where it was assigned Civil Action No. 2:14-cv-00093. The lawsuit pending in this forum was subsequently filed on February 24, 2014.

"Under the first-to-file rule, when related cases are pending before two federal courts, the court in which the case was last filed may refuse to hear it if the issues raised by the cases substantially overlap." *Cadle Co. v. Whataburger of Alice, Inc.*, 174 F.3d 599, 603 (5th Cir.1999). See, also, *Save Power Ltd. v. Syntek Fin. Corp.*, 121 F.3d 947, 950 (5th Cir.1997); *Dillard v. Merrill Lynch, Pierce, Fenner & Smith, Inc.*, 961 F.2d 1148, 1161 n. 28 (5th Cir.1992); *West Gulf Maritime Ass'n v. ILA Deep*

Sea Local 24, 751 F.2d 721, 729 (5th Cir.1985). The undersigned finds that the first-to-file rule is relevant to the issues currently before it.

Accordingly,

IT IS ORDERED that, not less than ten days after the date of this order, the parties shall file briefs addressing the following issues: (a) whether the two pending lawsuits “substantially overlap;” (b) whether the first-to-file rule applies; and (c) whether the first-to-file rule mandates transfer of this action to the United States District Court for the District of Utah.

IT IS FURTHER ORDERED that no reply briefs will be permitted and no oral argument will be held. A ruling on the pending motion (Rec. Doc. 7) will be rendered in due course following receipt of the ordered briefs.

Signed at Lafayette, Louisiana on July 1, 2014.

A handwritten signature in black ink, appearing to read 'P. J. Hanna', is written over a horizontal line.

PATRICK J. HANNA
UNITED STATES MAGISTRATE JUDGE